

Decision _____**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the matter of the application of David Smith and Shuttle Pro, Inc., for authority for David Smith to transfer his passenger stage corporation certificate No. 11820 to Shuttle Pro, Inc., to expand the existing PSC certificate to include Contra Costa, San Joaquin, Solano, Sonoma, Santa Cruz and Monterey Counties and ZORF.

Application 01-07-028
(Filed July 20, 2001)

O P I N I O N**Summary**

This decision grants the application to transfer, pursuant to Pub. Util. Code § 851 et seq., a passenger stage corporation (PSC) certificate from David Smith (Transferor), an individual, to Shuttle Pro, Inc. (Transferee), a corporation, (collectively, Applicants). Transferee is authorized to extend Transferor's PSC certificate, pursuant to Pub. Util. Code § 1031, and establish a Zone of Rate Freedom (ZORF), pursuant to Pub. Util. Code § 454.2.

Discussion

Transferor holds a certificate of public convenience and necessity (CPCN) to operate as a PSC, as defined in Pub. Util. Code § 226. The certificate was granted to Transferor by Decisions (D.) 99-12-015 and 00-10-058, and is currently described in Appendix PSC-11820 of the latter decision. It authorizes the transportation of persons and their baggage on an on-call basis between points in the counties of San Francisco, Alameda, San Mateo, Marin, and Santa Clara, on

the one hand, and San Francisco (SFO), Oakland (OAK), and San Jose (SJC) International Airports, on the other hand.

Transferor desires to incorporate the business. Applicants request authority to transfer certificate PSC-11820 to Transferee. The transfer will not result in any change in management.

Transferee also seeks to expand his PSC certificate to include all points in the counties of Contra Costa, San Joaquin, Solano, Sonoma, Santa Cruz, and Monterey, on the one hand, and SFO, OAK, and SJC, on the other hand. Additionally, Transferee also requests authority to establish a ZORF of \$10 above and below any of the authorized fares of \$20 and under, and \$20 above and below the authorized fares above \$20, shown in Exhibit D, attached to the application. The minimum one-way adult fare is \$5. Applicant will compete with other PSCs, taxicabs, limousines, buses, and automobiles in its service area. This highly competitive environment should result in Applicant pricing its services at a reasonable level.

Santa Cruz Transportation Inc., (Protestant) filed a timely protest on August 23, 2001. Protestant is a PSC, currently providing service between points in Santa Cruz County and SFO and SJC on a scheduled basis, and OAK on an on-call basis. Protestant expressed concern over the impact Transferee's proposed expanded operations might have on its own service. It also questioned Transferee's ability to service the vast territory.

By letter of August 27, 2001, Applicants amended the application to remove the request to serve Santa Cruz County. On September 20, 2001, Protestant withdrew its protest.

Notice of filing of the application appeared in the Commission's Daily Calendar on July 27, 2001. Applicant notified the affected cities, airports and transit agencies. Applicant requests a waiver from the provisions of Rule 21 of

the Commission's Rules of Practice and Procedure (RPP) which require service of a notice of the application on all city and county officials within whose boundaries the passengers will be loaded or unloaded. Applicant served a notice to the six involved counties and 27 cities in the service area. Applicant states that all parties that have an interest in Commission proceedings subscribe to or have access to the Commission's Daily Calendar. We shall exercise the discretion accorded to us by Rule 87 and grant the waiver requested by Applicant because he will be providing on-call, not scheduled service, and because service of the notice on all cities in the service territory would be unduly burdensome.

In Resolution ALJ 176-3068 dated August 2, 2001, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. A protest was filed but was withdrawn. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3068.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Findings of Fact

1. Transferor is operating as a PSC pursuant to Decision (D.) 99-12-015 and D.00-10-058.
2. Transferor desires to transfer to transferee the CPCN described in Appendix PSC-11820 of D.00-10-058.
3. The application, as amended, requests authority by Transferee to extend Transferor's CPCN between points in the counties of Contra Costa, Sonoma,

Solano, San Joaquin, Monterey, on the one hand, and SFO, OAK, and SJC, on the other hand.

4. Transferee also requests authority to establish a ZORF of \$10 above and below any of the authorized fares of \$20 and under, and \$20 above and below the authorized fares above \$20, as shown in Exhibit D, attached to the application. The minimum one-way adult fare is \$5.

5. Transferee will compete with other PSCs, taxicabs, limousines, buses, and private automobiles in its service area. The establishment of the ZORF is fair and reasonable.

6. Applicants request a waiver of the notice requirements of Rule 21 of the RPP as they have served notice to six counties, 27 cities, each of the affected airports and public transit operators, and the transportation planning agency in the service area.

7. The proposed transfer will not be adverse to the public interest.

8. A protest was filed. Applicants amended their application by letter of August 27, 2001. Protestant withdrew its protest by letter of September 20, 2001.

9. A public hearing is not necessary.

10. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. The proposed transfer is in the public interest and should be authorized.
2. Public convenience and necessity has been demonstrated by the Transferee and the application, as amended, should be granted.
3. The request to waive the notice requirements of Rule 21 should be granted.
4. The request for a ZORF should be granted.

5. Before Transferee changes any fares under the ZORF authorized below, Transferee should give this Commission at least 10 days' notice. The tariff should show between each pair of service points the high and low ends of the ZORF and the then currently effective fare.

6. Since the matter is uncontested, the decision should be effective on the date it is signed.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. Within 120 days from the effective date of this decision, David Smith (Transferor), an individual, may transfer the operative rights specified in this application to Shuttle Pro, Inc. (Transferee), a corporation, subject to the conditions contained in the following paragraphs.

2. Upon completion of transfer, Transferee is granted a certificate of public convenience and necessity (CPCN), including the extension to Transferor's CPCN, authorizing it to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, to transport persons and their baggage, between the points and over the routes set forth in Appendix PSC-14576.

3. Transferee shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.

- c. Adopt Transferor's tariffs and timetables, state in them when the service will start, make them effective 10 or more days after this order is effective and allow at least 10 days' notice to the Commission.
 - d. Comply with General Orders Series 101, 104, and 158, and the California Highway Patrol (CHP) safety rules.
 - e. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
 - f. Maintain accounting records in conformity with the Uniform System of Accounts.
 - g. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so.
 - h. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
 - i. Enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.
4. Transferee is authorized under Pub. Util. Code § 454.2 to establish a ZORF of \$10 above and below any of the authorized fares of \$20 and under, and \$20 above and below the authorized fares above \$20, as shown in Exhibit D, attached to the application. The minimum one-way adult fare is \$5.
5. Transferee shall file a ZORF tariff in accordance with the application on not less than 10 days' notice to the Commission and to the public. The ZORF shall expire unless exercised within 120 days after the effective date of this order.
6. Transferee may make changes within the ZORF by filing amended tariffs on not less than 10 days' notice to the Commission and to the public. The tariff shall include between each pair of service points the authorized maximum and minimum fares and the fare to be charged.
7. In addition to posting and filing tariffs, Transferee shall post notices explaining fare changes in its terminals and passenger-carrying vehicles. Such

notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least 30 days.

8. Transferee is authorized to begin operations on the date that the Rail Safety and Carriers Division mails a notice to Transferee that its evidence of insurance and other documents required by Ordering Paragraph 3 have been filed with the Commission and that the CHP has approved the use of Transferee's vehicles for service.

9. The CPCN granted to Transferor by Decision (D.) 99-12-015 and D.00-10-058 is revoked on the date Transferee is notified that it may commence operations as provided in Ordering Paragraph 8.

10. Before beginning service to any airport, Transferee shall notify the airport's governing body. Transferee shall not operate into or on airport property without authority from the airport's governing body.

11. The CPCN to operate as PSC-14576 granted herein, expires, unless exercised within 120 days after the effective date of this order.

12. The Application, as amended by letter of August 27, 2001, is granted as set forth above.

13. This proceeding is closed.

14. This order is effective today.

Dated _____, at San Francisco, California.

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-14576

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges

All changes and amendments as authorized by
the Public Utilities Commission of the State of California
will be made as revised pages or added original pages.

Supersedes the authority heretofore granted to
David Smith, an individual, by D.99-12-015 and D.00-10-058.

Issued under authority of Decision _____,
dated _____, of the Public Utilities Commission
of the State of California in Application 01-07-028.

I N D E X

	Page
SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS, AND SPECIFICATIONS.....	2
SECTION II. SERVICE AREAS	3
SECTION III. ROUTE DESCRIPTION	3

SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS, AND SPECIFICATIONS.

This certificate supersedes all passenger stage operative authorities granted to David Smith, an individual.

Shuttle Pro, Inc., a corporation, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, is authorized to transport passengers and their baggage on an "on-call" basis, between points and places as described in Section IIA, and the airports described in Section IIB, over and along the route described in Section III, subject however, to the authority of this Commission to change or modify this authority at any time and subject to the following provisions:

- a. When a route description is given in one direction, it applies to operation in either direction unless otherwise indicated.
- b. The term "on-call", as used, refers to service which is authorized to be rendered dependent on the demands of passengers. The tariffs shall show the conditions under which each authorized on-call service will be provided, and shall include the description of the boundary of each fare zone, except when a single fare is charged to all points within a single incorporated city.
- c. No passengers shall be transported except those having a point of origin or destination as described in Section IIB.
- d. This certificate does not authorize the holder to conduct any operation on the property of any airport unless such operation is authorized by the airport authority involved.

SECTION II. SERVICE AREA.

- A. Within the geographical limits of the Counties of Alameda, Contra Costa, San Mateo, Santa Clara, Sonoma, Solano, San Joaquin, Marin, Monterey, and San Francisco.
- B. San Francisco International Airport.
Oakland International Airport.
San Jose International Airport.

SECTION III. ROUTE DESCRIPTION.

Commencing from any point as described in Section IIA, then over the most convenient streets, expressways, and highways to any airport described in Section IIB.